

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 12-20721

v.

Honorable Nancy G. Edmunds

DAVID ALLEN MARTIN,

Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION FOR
EARLY TERMINATION OF SUPERVISED RELEASE [28]**

On February 21, 2013, Defendant David Allen Martin pleaded guilty to one count of possession of child pornography in violation of 18 U.S.C. § 2252A(a)(5)(B) and 2252A(b)(2). On August 8, 2014, Defendant was sentenced to a term of 48 months of imprisonment followed by a term of 60 months of supervised release. (ECF No. 23.) He was released from prison and began his term of supervised release on June 20, 2017. Presently, he has served 53 months of his 60-month term. The matter is now before the Court on Defendant's letter motion for early termination of supervised release. (ECF No. 28.) The government has received notice of the relief sought, has had a reasonable opportunity to object, and has not done so. Pursuant to Fed. R. Crim. P. 32.1(c)(2)(B) and (C), the Court declines to hold a hearing.

Defendant states in his motion that he has accomplished all that was required by the Court during his supervision while maintaining respectful relationships with his probation officer, family, friends and neighbors. He explains that he is experiencing health problems and has recently undergone surgery to remove cancer. A review of the record

indicates that Defendant is wheelchair-bound and considered disabled. (See ECF No. 21-1.)

Due to a policy of the United States Probation Department, Defendant's probation officer is not permitted to request or recommend early termination of supervised release in cases such as this one because it involves a sexual offense. Defendant's probation officer instead writes to inform the Court that there are no issues or concerns with Defendant and that he has complied with all the terms and conditions of his supervision thus far. She states Defendant has maintained his household and his health, which has been a concern, while remaining in his residence most of the time. He resides with his grown children and is currently in recovery from surgery.

The Court may terminate a term of supervised release at any time after the expiration of one year of supervised release if the Court "is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice." 18 U.S.C. § 3583(e)(1). Additional factors to consider are the sentencing factors in 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7), though the Court need not "recite any 'magic words' explaining whether and how" it weighed those factors or considered relevant policy statements. 18 U.S.C. § 3583(e); *United States v. Suber*, 75 F. App'x 442, 444 (6th Cir. 2003). "Early termination of supervised release is a discretionary decision that is only warranted in cases where the defendant shows changed circumstances . . ." *United States v. Atkin*, 38 F. App'x 196, 198 (6th Cir. 2002) (citing *United States v. Lussier*, 104 F.3d 32, 36 (2d Cir. 1997)).

Here, the Court finds that Defendant's deteriorating health along with his satisfactory compliance with the terms of supervised release thus far warrant early

termination of Defendant's supervised release. As noted above, Defendant has completed a large majority of his term of supervision and has only seven months remaining before that term expires. The Probation Department, while prohibited from making a formal recommendation or request, has provided only positive feedback regarding its experience with Defendant and the government has filed no response in opposition to his request. Under these circumstances, and in consideration of the relevant sentencing factors, the Court finds that early termination of supervised release is warranted. Accordingly, Defendant's motion for early termination of supervised release is GRANTED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: November 17, 2021

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 17, 2021, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager